

# State of South Dakota

## EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

717L0074

### SENATE TAXATION COMMITTEE ENGROSSED NO. **HB 1002** - 02/02/2005

Introduced by: Representatives Weems, Deadrick, Fryslie, Murschel, and Sebert and  
Senators Dempster, Hundstad, Kloucek, Knudson, and Peterson (Jim) at the  
request of the Interim Committee on Property Assessment

1 FOR AN ACT ENTITLED, An Act to revise the requirements for determining whether  
2 dwellings are eligible to be classified as owner-occupied single-family dwellings.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-13-40 be amended to read as follows:

5 10-13-40. To be eligible for a property classification pursuant to § 10-13-39, the owner of  
6 each owner-occupied dwelling, as defined in § 10-13-39, shall submit a certificate to the county  
7 director of equalization stating such person is the owner and occupant of the dwelling as of the  
8 assessment date pursuant to § 10-6-2 and that the dwelling is the owner's principal place of  
9 residence as defined in § 12-1-4. If the owner occupies two or more dwellings during an  
10 assessment year, the owner shall provide the location of any other dwellings that the owner  
11 occupies when submitting the certificate. The director of equalization may request additional  
12 documentation from the owner when making the determination of eligibility. If any person  
13 submits information to the director of equalization contesting the eligibility of a dwelling to be  
14 classified as an owner-occupied single-family dwelling, the director of equalization shall review



1 the classification and make a determination of eligibility. The owner shall state on the certificate  
2 the portion of the dwelling so occupied by the owner if it is less than fifty percent of the  
3 dwelling or if the dwelling is a duplex, triplex, or fourplex. The owner-occupant shall submit  
4 the certificate by March fifteenth. The owner of each manufactured or mobile home as defined  
5 in § 32-3-1, shall submit a certificate to the county director of equalization stating such person  
6 is the owner and occupant of the dwelling as of the assessment date. The owner-occupant of  
7 each manufactured or mobile home shall submit the certificate during the time of registration  
8 pursuant to §§ 10-9-3 to 10-9-4, inclusive. If the owner-occupant of a manufactured or mobile  
9 home fails to submit the certificate by the date or time frame required pursuant to §§ 10-9-3 to  
10 10-9-4, inclusive, it does not affect the eligibility of the property to be classified as an  
11 owner-occupied dwelling. The owner-occupant shall sign the certificate under penalty of  
12 perjury. If the director of equalization classifies the property, mobile home, or manufactured  
13 home as owner-occupied single-family dwelling, it shall retain the classification until such time  
14 as the property ownership is transferred or the property has a change in use. The new  
15 owner-occupant of transferred property which is already classified as owner-occupied may meet  
16 the requirements of this section by completing and filing the certificate of value required  
17 pursuant to § 7-9-7 at the time of the transfer of the property. If the legal description of property  
18 is changed or amended and the owner continues to reside in the dwelling that is classified as a  
19 owner- occupied single-family dwelling, the owner shall retain the owner-occupied  
20 single-family dwelling classification. The Department of Revenue and Regulation shall  
21 prescribe the form of the certificate and the certificate of value required pursuant to § 7-9-7.  
22 Appeals regarding the owner-occupied classification shall be made directly to the county board  
23 of equalization pursuant to § 10-11-23.

24 Section 2. No amendment to § 10-13-40 made pursuant to section 1 of this Act compels the

1 director of equalization to review any owner-occupied single-family classifications determined  
2 before July 1, 2005. However, the director of equalization may review such classifications if  
3 information is provided or discovered concerning the eligibility of any dwelling that is classified  
4 as an owner-occupied single-family dwelling.

5 Section 3. That § 10-13-39 be amended to read as follows:

6 10-13-39. Each owner-occupied single-family dwelling in this state is specifically classified  
7 for the purpose of taxation. For the purposes of this section, an owner-occupied single-family  
8 dwelling is a house, condominium apartment, residential housing consisting of four or less  
9 family units, town house, town home, housing cooperatives where membership in the  
10 cooperative is strictly limited to stockholder occupants of the building, dwelling as classified  
11 in § 10-13-39.1, and manufactured or mobile home as defined in § 32-3-1, which is assessed and  
12 taxed as a separate unit, including an attached or unattached garage and the parcel of land upon  
13 which the structure is situated as recorded in the records of the director of equalization. A  
14 person may only have one dwelling, which is the person's principal place of residence as defined  
15 in § 12-1-4, classified as an owner-occupied single-family dwelling. If the owner occupies fifty  
16 percent or more of the living space within the dwelling, the entire dwelling is classified as an  
17 owner-occupied single-family dwelling. If the owner occupies a duplex, triplex, or fourplex,  
18 or less than fifty percent of the living space within the dwelling, the portion of the dwelling so  
19 occupied shall be classified as an owner-occupied single-family dwelling.

20 Section 4. That § 10-13-39.1 be amended to read as follows:

21 10-13-39.1. Any person may request the director of equalization before August first to  
22 specifically classify certain property for the purpose of taxation if a portion of any property,  
23 building, or structure is occupied by the owner. If the director of equalization determines that  
24 such portion is occupied by the owner and meets the requirements of § 10-13-39, the director

1 of equalization shall assess as a separate unit the portion of the property, building, or structure  
2 occupied and it shall be specifically classified for the purpose of taxation. An aggrieved person  
3 may appeal the decision of the director pursuant to chapter 1-26D. The director shall act upon  
4 the request within thirty days of the date of the request.